IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPLICATION NO.56 OF 2002

The Commissioner of Income Tax
Bombay City I, Bombay .. Petitioner
V/s
The Tata Iron & Steel Co.Ltd. .. Respondents

Mr.Ashok Kotangale for the Petitioner.
Mr.P.C.Tripathi with Mr.Dinesh Vyas for Respondents.

CORAM : DR.S.RADHAKRISHNAN & V.C.DAGA, JJ.

DATE : 20th March, 2007.

P.C.:

1. Heard the learned Counsel for the parties. This Application pertains to the Assessment Year 1982-1983 raising the following three questions of law:-

(i). Whether on the facts and in the circumstances of the case, the Tribunal was right in law in allowing the assessee's claim of investment allowance of Rs.16,92,403/- on the cost of Railway siding at Stockyard?

(ii). Whether on the facts and in the circumstances of the case, the Tribunal was right in law in applying Sec.40(c) instead of Sec.40A(5) for disallowance out of remuneration and perquisites in respect of employee-directors?

(iii). Whether on the facts and in the circumstances of the case, the Tribunal was right in law in setting aside the CIT(A)'s order in respect of the disallowance of expenditure on maintenance of residential accommodation of assessees co.for the visiting employees of assessee and directing the A.O.to decide this issue afresh in the light of the directions given by the Bombay High Court in the case of Century Spg.& Mfg.Co.Ltd.

2. With regard to the first question of law the learned Counsel for the Petitioner fairly states that the

Tribunal has merely followed its own earlier order with regard to Assessment Year 1981-1982 and that he is not aware as to whether the Revenue has challenged the same. It seems that the Revenue has accepted the said order. In view thereof, there is no need to consider the above question No.(i).

3. So far as question No.(ii) is concerned, both the learned Counsel fairly state that the issue involved is squarely covered in favour of the Assessee and against the Revenue in view of the decision of this Court in the case of **CIT V/s.Hico Products Pvt.Ltd.- (1993) 201 ITR 567.**

4. So far as question No.(iii) is concerned, by consent of both the parties, we treat the present application as "Statement of the Case". The learned Counsel for both the parties state that the issue involved is squarely covered in favour of the Revenue and against the Assessee in view of the decision of the Hon'ble Supreme Court in the case of **Britania Industries Ltd. V/s.CIT & Anr. - (2005) 278 ITR 546 (SC).** Accordingly we answer the aforesaid question No.(iii) in favour of the Revenue and against the Assessee. Reference stands disposed of accordingly.

(V.C.DAGA, J.) **(DR.S.RADHAKRISHNAN,J.)**